



AN ACT ESTABLISHING A PROCESS FOR A DISTRICT COURT TO RECOGNIZE A ROUTE OF A COUNTY ROAD AS THE LEGAL ROUTE IF CERTAIN CONDITIONS EXIST; AND AMENDING SECTIONS 7-14-2101 AND 60-1-201, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Recognition of county road route by district court. (1) The county commission or a directly affected person, if the person has appeared before a regular meeting of the county commission to notify the commission of the person's intent, may request that a district court recognize a route of a county road that is maintained by the county and used by the public as the legal route if any of the following conditions exist:

- (a) there is doubt about the legal establishment or evidence of establishment of the county road;
- (b) the location of the county road cannot be accurately determined because of:
 - (i) numerous alterations to the road;
 - (ii) a defective survey of the road or adjacent property; or
 - (iii) loss or destruction of the original survey of the road; or
- (c) the road as traveled and used for 10 years or more does not conform to the location of the road as described in county records.

(2) The county commission or the directly affected person requesting recognition of a route shall provide to the court:

- (a) the reason for the request and the condition that exists;
- (b) the location of the portion of the road that is the subject of the request;
- (c) any maps or historical use information that may assist the court in determining whether or not to recognize a route; and
- (d) any other information requested by the court.

(3) Upon receipt of a request and consideration of the information provided and any other information that the court considers appropriate, the court may, subject to subsection (4), recognize a route of a county road

as the legal route. The route as recognized by the court is considered to be a county road.

(4) The court shall provide notice and the opportunity for a public hearing to affected landowners, the county commission, and directly affected persons before recognizing or declining to recognize a route of a county road as the legal route.

(5) This section does not apply to county roads established by prescriptive easement.

Section 2. Section 7-14-2101, MCA, is amended to read:

"7-14-2101. General powers of county relating to roads and bridges -- definitions. (1) The board of county commissioners, under the limitations and restrictions that are prescribed by law, may:

(a) (i) lay out, maintain, control, and manage county roads and bridges within the county;

(ii) subject to 15-10-420, levy taxes for the laying out, maintenance, control, and management of the county roads and bridges within the county as provided by law;

(b) (i) in the exercise of sound discretion, jointly with other counties, lay out, maintain, control, manage, and improve county roads and bridges in adjacent counties, wholly or in part as agreed upon between the boards of the counties concerned;

(ii) subject to 15-10-420, levy taxes for the laying out, maintenance, control, management, and improvement of county roads and bridges in adjacent counties or shared jointly with other counties, as agreed upon between the boards of the counties concerned and as provided by law;

(c) (i) enter into agreements for adjusted annual contributions over not more than 6 years toward the cost of joint highway or bridge construction projects entered into in cooperation with other counties, the state, or the United States;

(ii) subject to 15-10-420, place a joint project in the budget and levy taxes for a joint project as provided by law.

(2) Unless the context requires otherwise, for the purposes of this chapter, the following definitions apply:

(a) "Bridge" includes rights-of-way or other interest in land, abutments, superstructures, piers, and approaches except dirt fills.

(b) "County road" means:

(i) a road that is petitioned by freeholders, approved by resolution, and opened by a board of county commissioners in accordance with this title;

(ii) a road that is dedicated for public use in the county and approved by resolution by a board of county commissioners;

(iii) a road that has been acquired by eminent domain pursuant to Title 70, chapter 30, and accepted by resolution as a county road by a board of county commissioners; ~~or~~

(iv) a road that has been gained by the county in an exchange with the state as provided in 60-4-201; or

(v) a road that has been the subject of a request under [section 1] and for which a legal route has been recognized by a district court as provided in [section 1].

(3) (a) Following a public hearing, a board of county commissioners may accept by resolution a road that has not previously been considered a county road but that has been laid out, constructed, and maintained with state department of transportation or county funds.

(b) A survey is not required of an existing county road that is accepted by resolution by a board of county commissioners.

(c) A road that is abandoned by the state may be designated as a county road upon the acceptance and approval by resolution of a board of county commissioners."

Section 3. Section 60-1-201, MCA, is amended to read:

"60-1-201. Classification -- highways and roads. (1) Public highways of this state are classified as follows:

(a) federal-aid highways;

(b) state highways;

(c) county roads;

(d) city streets.

(2) All highways that are not designated, selected, or established by the commission or constructed or maintained by the department may be designated as county roads or city streets upon the acceptance of the county or city.

(3) County roads are those that are opened, established, constructed, maintained, changed, abandoned, or discontinued by a county in accordance with Title 7, chapter 14, or that have been the subject of a request under [section 1] and for which a legal route has been recognized by a district court as provided in [section 1].

(4) City streets are those public highways under the jurisdiction of municipal officials."

Section 4. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 7, chapter 14, part 26, and the provisions of Title 7, chapter 14, part 26, apply to [section 1].

- END -

I hereby certify that the within bill,
HB 0563, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2009.

President of the Senate

Signed this _____ day
of _____, 2009.

HOUSE BILL NO. 563
INTRODUCED BY D. KOTTEL

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